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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/498,104	02/04/2000	Paul M Scpton	1001.1375101	8323
28075	7590	12/18/2008	EXAMINER	
CROMPTON, SEAGER & TUFTE, LLC			DESANTO, MATTHEW F	
1221 NICOLLET AVENUE				
SUITE 800			ART UNIT	PAPER NUMBER
MINNEAPOLIS, MN 55403-2420			3763	
			MAIL DATE	DELIVERY MODE
			12/18/2008	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE BOARD OF PATENT APPEALS  
AND INTERFERENCES

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Ex parte PAUL M. SCOPTON

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Application No. 09/498,104  
Technology Center 3700

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Mailed: December 18, 2008

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Before GLORIA HENDERSON, *Review Team Paralegal*  
HENDERSON, *Review Team Paralegal*.

**ORDER RETURNING UNDOCKETED APPEAL TO EXAMINER**

This application was received electronically at the Board of Patent Appeals and Interferences on September 9, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matter(s) requiring attention prior to docketing are identified below.

On September 3, 2008, a PTOL-901, in the form of a Supplemental Examiner's Answer was mailed in response to a Reply Brief filed on June 17, 2008.

37 CFR 41.43 states:

Examiner's response to reply brief.

(a)(1) After receipt of a reply brief in compliance with § 41.41, the primary examiner must acknowledge receipt and entry of the reply brief. In addition, the primary examiner may withdraw the final rejection and reopen prosecution or may furnish a supplemental examiner's answer responding to any new issue raised in the reply brief.

(2) A supplemental examiner's answer responding to a reply brief may not include a new ground of rejection.

(b) If a supplemental examiner's answer is furnished by the examiner, appellant may file another reply brief under § 41.41 to any supplemental examiner's answer within two months from the date of the supplemental examiner's answer.

MPEP § 1207.05 states in part..

All Supplemental Examiner's Answers are required to obtain approval of the Technology Center Director or his/her designee. Correction is required.

Accordingly, it is

ORDERED that the application is returned to the examiner

1) to vacate the PTOL-90 mailed September 3, 2008, to include the approval of the Technology Center Director in accordance with 37 CFR 41.43; and

2) for such further action as may be appropriate.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

GJH

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